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Bryce A. Jones

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EXAMINER

MERCHANT, SHAHID R

ART UNIT

PAPER NUMBER

3694

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/997,946	<b>Applicant(s)</b> JONES ET AL.	
	<b>Examiner</b> Shahid R. Merchant	<b>Art Unit</b> 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/30/2001</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Priority*

1. Examiner has given consideration to applicant's co-pending U.S. Patent Application No. 09/708,836 filed on November 8, 2000. For examining purposes of this application, the effective filing date will be November 30, 2001, because the contents of application 09/708,836 would not enable one of ordinary skill in the art to make or use the invention in current application, 09/997,946. Therefore, consideration for priority to November 8, 2000 is denied.

### *Drawings*

2. New corrected drawing in compliance with 37 CFR 1.121(d) are required in this application. Figures 1-4 and 7 contain improper shading and handwritten text, which may affect clarity once reproduced. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10 and 28 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. The term "periodically" in claims 10 and 28 is a relative term which renders the claim indefinite. The term "periodically " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Applicant needs to define what "periodically" means. In the specification on page 25 (paragraph 1) the applicant describes "periodically" as "regularly or non-regularly". These terms still render the claim as indefinite.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1,2 and 4-11 rejected under 35 U.S.C. 102(b) as being anticipated by Lesley, WO 98/21874 (see attached PTO-892, Ref. N).

8. As per claim 1, Lesley teaches a method for providing prepaid data service, the method comprising:

making a determination of whether a balance of the prepaid account meets a threshold (see page 15, lines 15-18);

if the determination is that the balance of the prepaid account does not meet the threshold, then passing traffic to a requested destination (see page 15, lines 18-22)

if the determination is that the balance of the prepaid account meets the threshold, then redirecting the traffic to a self-service portal (see page 15, lines 18-19 and page 16, lines 8-12); and

adding value to the balance of the prepaid account at the self-service portal (see page 16, lines 8-17).

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9. As per claim 2, Lesley teaches the method of claim 1 as described above.

Lesley further teaches wherein making the determination of whether the balance of the prepaid account meets a threshold comprises comparing the balance of the prepaid account to the threshold (see page 15, lines 24-30).

10. As per claim 4, Lesley teaches the method of claim 1 as described above.

Lesley further teaches further comprising sending an alert to the subscriber terminal, the alert providing a notification of prepaid data access available to the subscriber terminal (see page 15, lines 27-30 and page 16, lines 8-12).

11. As per claim 5, Lesley teaches the method of claim 1 as described above.

Lesley further teaches further comprising:

establishing a communication session with a subscriber terminal (see page 14, lines 25-28); and

directing the traffic from the subscriber terminal to the self-service portal in response to establishing the communication session (see page 14, lines 28-30 and page 15, lines 1-13).

12. As per claim 6, Lesley teaches the method of claim 1 as described above.

Lesley further teaches further comprising:

establishing a communication session with a subscriber terminal over an air interface (see page 8, lines 4-12, page 14, lines 28-30 and page 15, lines 1-13),

whereby the traffic is received from the subscriber terminal (see page 14, lines 28-30 and page 15, lines 1-13).

13. As per claim 7, Lesley teaches the method of claim 1 as described above.

Lesley further teaches wherein a counter represents the balance of the prepaid account, the method further comprising adjusting the counter as the traffic passes to the requested destination (see page 15, lines 24-27 and page 16, lines 1-7).

14. As per claim 8, Lesley teaches the method of claim 1 as described above.

Lesley further teaches further comprising:

subscribing to a billing server to determine the balance of the prepaid account (see page 3, lines 15-16); and

receiving an indication of the balance of the prepaid account from the billing server (see page 3, lines 17-22).

15. As per claim 9, Lesley teaches the method of claim 8 as described above.

Lesley further teaches wherein the indication is whether the balance of the prepaid account meets the threshold (see page 3, lines 21-22).

16. As per claim 10, Lesley teaches the method of claim 8 as described above.

Lesley further teaches further comprising periodically polling the billing server for the

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indication of the balance of the prepaid account (see page 13, lines 19-24, page 14, lines 25-28 and page 15, lines 15-18).

17. As per claim 11, Lesley teaches a method of prepaid data service, the method comprising:

establishing a communication session with a subscriber terminal (see page 8, lines 4-12, page 14, lines 28-30 and page 15, lines 1-13);

making a determination of whether the balance of the prepaid account meets a threshold (see page 3, lines 21-22);

if the determination is that the balance of the prepaid account does not meet the threshold, then passing traffic from the subscriber terminal to a requested destination (see page 15, lines 18-22);

if the determination is that the balance of the prepaid account meets the threshold, then redirecting the traffic from the subscriber terminal to a self-service portal (see page 15, lines 18-19 and page 16, lines 8-12); and

providing an account number to the self service portal to add value to the balance of the prepaid account (see page 14, line 30 and page 15, lines 1-2).

18. Claim 12 rejected under 35 U.S.C. 102(b) as being anticipated by Taskett, U.S. Patent No. 5,991,748 (see attached PTO-892, Ref. A).

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19. As per claim 12, Lesley teaches a method for providing prepaid data service, the method comprising:

making a first determination of whether a balance of a prepaid account meets a first threshold (see column 7, lines 51-62);

if the first determination is that the balance of the prepaid account does not meet the first threshold, then passing traffic to a requested destination (see column 7, lines 51-62);

making a second determination of whether the balance of a prepaid account meets a second threshold, the second determination being made in response to (i) the subscriber terminal being dropped from an access gateway; and (ii) the subscriber terminal reestablishing a communication session with the access gateway (see column 7, lines 66-67 and column 8, lines 1-17); and

if the second determination is that the balance of the prepaid account meets the second threshold, then redirecting the traffic to a self-service portal (see column 7, lines 66-67 and column 8, lines 1-17).

***Claim Rejections - 35 USC § 103***

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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21. Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Lesley, WO 98/21874 (see attached PTO-892, Ref. N) in view of Berry, WO 99/56254 (see attached PTO-892, Ref. O).

22. As per claim 3, Lesley teaches the method of claim 1 as described above.

Lesley does not explicitly teach comprising selecting a level of prepaid data access to a data network.

Berry teaches selecting a level of prepaid data access to a data network (see page 14, paragraph 2).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Lesley and Berry to select a level of access on a data network because it allows a user to select and pay accordingly for certain bandwidth for applications like video conferencing as taught by Berry (see page 14, paragraph 2).

23. Claim 13-16, 18-21 and 23-30 rejected under 35 U.S.C. 103(a) as being unpatentable over Lesley, WO 98/21874 (see attached PTO-892, Ref. N) in view of Moore et al., U.S. Patent Application Publication 2002/0046255 (see attached PTO-892, Ref. B).

24. As per claim 13, Lesley teaches a system for prepaid data service comprising:  
a subscriber terminal (see page 7, line 30 and page 8, lines 1-8);

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a data gateway (see page 8, lines 21-30 and page 9, lines 16-30);

wherein the data gateway comprises a processor, a memory, and computer instructions stored in the memory and executable by the processor for:

passing traffic from the subscriber terminal to a requested destination if a balance of the prepaid account does not meet a threshold (see page 15, lines 18-22); and

redirecting the traffic to the web server if the balance of the prepaid account meets the threshold (see page 15, lines 18-19 and page 16, lines 8-12); and

wherein a server comprises a processor, a memory, and computer instructions stored in the memory and executable by the processor for:

adding value to the balance of the prepaid account in response to the balance of the prepaid account meeting the threshold (see page 16, lines 12-17).

Lesley does not explicitly teach the system comprising of a web server.

Moore teaches the system comprising of a web server (see paragraphs 26 and 27).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Lesley and Moore to utilize a web-server because it allows outside system operators, like online retailers, to utilize the web-server to brand their own prepaid services using the web-server as taught by Moore (see abstract).

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25. As per claim 14, Lesley and Moore teach the system of claim 13. Lesley further teaches wherein a determination of whether the balance of the prepaid account meets the threshold comprises comparing the prepaid account to the threshold (see page 3, lines 21-22).

26. As per claim 15, Lesley and Moore teach the system of claim 13. Lesley further teaches further comprising a policy decision point, the policy decision point having comprises a processor, a memory, and computer instructions stored in the memory and executable by the processor for comparing the balance of the prepaid account to the threshold to determine whether the balance of the prepaid account meets the threshold (see page 3, lines 21-22).

27. As per claim 16, Lesley and Moore teach the system of claim 13. Lesley does not explicitly teach wherein a self-service portal resides on the web server.

Moore teaches wherein a self-service portal resides on the web server (see paragraphs 26 and 27).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Lesley and Moore to have the self-service portal reside on a web-server because it allows outside system operators, like online retailers, to utilize the web-server to brand their own prepaid services using the web-server as taught by Moore (see abstract).

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28. As per claim 18, Lesley and Moore teach the system of claim 13. Lesley further teaches wherein the data gateway further computer instructions stored in the memory and executable by the processor for directing the traffic from the subscriber terminal to the web server in response to a communication session being established with the subscriber terminal (see page 14, lines 28-30 and page 15, lines 1-13).

29. As per claim 19, Lesley and Moore teach the system of claim 13. Lesley further teaches wherein the data gateway comprises an entity selected from the group consisting of a PDSN, an MSC, an IWF, a WAP server, and a switch (see page 8, lines 21-27).

30. As per claim 20, Lesley and Moore teach the system of claim 13. Lesley further teaches wherein the policy decision point comprises an entity selected from the group consisting of a service agent, a service control point, and a network capabilities gateway (see page 9, lines 16-30).

31. As per claim 21, Lesley and Moore teach the system of claim 13. Lesley further teaches wherein the data gateway further comprises computer instructions stored in memory and executable by the processor for sending an alert to the subscriber terminal, the alert providing a notification of prepaid access available to the subscriber terminal (see page 15, lines 27-30 and page 16, lines 8-12).

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32. As per claim 23, Lesley and Moore teach the system of claim 13. Lesley further teaches wherein (i) the subscriber terminal transmits the traffic over an air interface to an access entity and (ii) the access gateway is coupled to the data gateway by a communication network (see page 8, lines 4-12).

33. As per claim 24, Lesley and Moore teach the system of claim 13. Lesley further teaches wherein the subscriber terminal is a wireless terminal (see page 8, lines 4-8).

34. As per claim 25, Lesley and Moore teach the system of claim 13. Lesley further teaches wherein the requested destination is on a data network (see page 8, lines 8-12).

35. As per claim 26, Lesley and Moore teach the system of claim 13. Lesley further teaches further comprising:

a billing server (see Figure 1, items 40, 42 and 44); and

the data gateway further comprising computer instructions stored in the memory and executable by the processor for:

subscribing to the billing server to determine the balance of the prepaid

account (see page 3, lines 15-16); and

receiving an indication of the balance of the prepaid account from the billing server (see page 3, lines 17-22).

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36. As per claim 27, Lesley and Moore teach the system of claim 13. Lesley further teaches wherein the indication is whether the balance of the prepaid account meets the threshold (see page 3, lines 21-22).

37. As per claim 28, Lesley and Moore teach the system of claim 13. Lesley further teaches wherein the data gateway further comprises computer instructions for periodically polling the subscriber terminal for the indication of the balance of the prepaid account (see page 13, lines 19-24, page 14, lines 25-28 and page 15, lines 15-18).

38. As per claim 29, Lesley and Moore teach the system of claim 13. Lesley further teaches wherein a counter representing the balance of the prepaid account is adjusted as traffic passes to the requested destination (see page 15, lines 24-27 and page 16, lines 1-7).

39. As per claim 30, Lesley teaches a system for prepaid data service comprising:  
means for making a determination of whether the balance of the prepaid account meets a threshold (see page 15, lines 15-18);  
means for passing traffic to a requested destination if the determination is that the balance of the prepaid account does not meet the threshold (see page 15, lines 18-22); and

means for redirecting the traffic to a self-service portal if the determination is that the balance of the prepaid account meets the threshold (see page 15, lines 18-19 and page 16, lines 8-12).

40. Claim 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Lesley, WO 98/21874 (see attached PTO-892, Ref. N) and Moore et al., U.S. Patent Application Publication 2002/0046255 (see attached PTO-892, Ref. B) as applied to claim 13 above, and further in view of Berry, WO 99/56254 (see attached PTO-892, Ref. O).

41. As per claim 17, Lesley and Moore teach the system of claim 13 as described above. Lesley and Moore do not explicitly teach wherein the web server further comprises computer instructions for selecting a level of prepaid data service.

Berry teaches wherein the web server further comprises computer instructions for selecting a level of prepaid data service (see page 14, paragraph 2).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Lesley and Berry to select a level of access on a data network because it allows a user to select and pay accordingly for certain bandwidth for applications like video conferencing as taught by Berry (see page 14, paragraph 2).

42. Claim 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Lesley, WO 98/21874 (see attached PTO-892, Ref. N) and Moore et al., U.S. Patent Application

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Publication 2002/0046255 (see attached PTO-892, Ref. B) as applied to claim 21 above, and further in view of Taskett, U.S. Patent No. 5,991,748 (see attached PTO-892, Ref. A).

43. As per claim 22, Lesley and Moore teach the system of claim 21 as described above. Lesley and Moore do not explicitly teach wherein the alert is selected from the group consisting of a text message and a voice message.

Taskett teaches wherein the alert is selected from the group consisting of a text message and a voice message (see column 7, lines 63-65).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Lesley and Moore and Taskett to give a user a verbal warning that time is running low because it allows the user to recharge the account without getting disconnected as taught by Taskett (see column 2, lines 39-52 and column 8, lines 12-18).

44. Claim 31 rejected under 35 U.S.C. 103(a) as being unpatentable over Lesley, WO 98/21874 (see attached PTO-892, Ref. N) in view of Taskett, U.S. Patent No. 5,991,748 (see attached PTO-892, Ref. A).

45. As per claim 31, Lesley teaches a system for prepaid data service comprising:  
a subscriber terminal (see page 15, lines 18-19 and page 16, lines 8-12);  
a data gateway (see page 8, lines 21-30 and page 9, lines 16-30);

wherein the data gateway comprises a processor, memory, and computer instructions stored in the memory and executable by the processor for:

passing traffic to a requested destination if a balance of a prepaid account does not meet a first threshold (see page 15, lines 18-22).

Lesley does not explicitly teach in response to (i) the subscriber terminal being dropped from an access gateway; and (ii) the subscriber terminal reestablishing a communication session with the subscriber terminal, redirecting the traffic to a self-service portal if the balance of the prepaid account meets the second threshold.

Taskett teaches in response to (i) the subscriber terminal being dropped from an access gateway; and (ii) the subscriber terminal reestablishing a communication session with the subscriber terminal, redirecting the traffic to a self-service portal if the balance of the prepaid account meets the second threshold (see column 7, lines 47-50 and 66-67 and column 8, lines 1-17).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Lesley and Taskett to redirect user to self-service portal if balance is getting low because it prevents the user from potentially being disconnected as taught by Taskett (see column 8, lines 15-17).

46. Claim 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Lesley, WO 98/21874 (see attached PTO-892, Ref. N) and Taskett, U.S. Patent No. 5,991,748 (see attached PTO-892, Ref. A) as applied to claim 31 above, and further in view of

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Moore et al., U.S. Patent Application Publication 2002/0046255 (see attached PTO-892, Ref. B).

47. As per claim 32, Lesley and Taskett teach the system of claim 31 as described above. Lesley and Taskett do not explicitly teach wherein the data gateway is a WAP server.

Moore teaches wherein the data gateway is a WAP server (see paragraphs 26 and 27).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Lesley, Taskett and Moore to utilize a WAP server as a data gateway because it allows individual end-users having a web browser to access the system as taught by Moore (see paragraph 26).


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid R. Merchant whose telephone number is 571-270-1360. The examiner can normally be reached on First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammel can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SRM

  
ELLA COLBERT  
PRIMARY EXAMINER